

BAITIMORE, MD.
SUN
M - 136,914
E - 214,784
S - 351,153

CPYRGHT

FOIAb3b

DEC 9 1953

SLANDER SUIT AGAINST CIA MAN DROPPED

U.S. Agency's Silence
In Case Thwarts
\$110,000 Action

By THEODORE W. HENDRICKS

A Federal judge yesterday threw out a \$110,000 slander suit brought against a CIA operative by an Estonian who argued that the agent had called him a subversive.

Eerik Heine, 46, who resides in Canada, claimed damages in the case because his reputation as a lecturer on anti-Communist activities had been ruined.

However, the CIA refused to disclose the sources of its information on Mr. Heine except to admit that it had sent the agent to New York to make the statements.

Impossible To Try Case

Chief Judge Roszel C. Thomsen noted that the reluctance of the CIA to submit to interrogation in normal court procedures made it impossible to try the case.

"A trial would not resolve the question of the truth or falsity of the charges, because the court would still be required to recognize the privilege asserted by the United States," Judge Thomsen wrote.

The dilemma posed by Judge Thomsen was this:

1. Since the agent, Juri Raus, 38, of Hyattsville, was prevented from testifying, he would stand "weaponless before his adversary" in a court trial.

Choice Between 2 Evils

2. On the other hand, lack of a trial would deny Mr. Heine the opportunity to attempt to vindicate himself in court.

CPYRGHT

"No way to avoid choosing between two evils has been suggested or discovered," Judge Thomsen wrote.

A choice in the matter was dictated, Judge Thomsen decided, by Supreme Court decisions which

reinforced a principle first stated by Judge Learned Hand.

Judge Hand pointed out that there was a danger in subjecting public officials to a civil trial for official acts that caused some persons to suffer.

In the case before him, Judge Hand decided that it was "better to leave unredressed wrongs done by dishonest officers than to subject those who try to do their duty to the constant dread of retaliation . . ."

No Way Of Solving Dilemma

Since there was no way of solving the dilemma in the present case, Judge Thomsen said he would have to rely on "principles clearly stated" and enter a summary judgment for Mr. Raus.

The slander suit against Mr. Raus was originally brought in Federal Court in November, 1964. At that time, Mr. Heine alleged that he had never been a Communist.

Mr. Heine said that he was a citizen of Canada and had been active in various Estonian emigre groups, lecturing and showing a movie: "Creators of Legend."

He was a prisoner in Russian prison camps and a guerrilla fighter against the Communist takeover of his country, Mr. Heine asserted.

Suit was filed because Mr. Raus, the national commander of the Legion of Estonian Liberation, Inc., on three occasions stated Mr. Heine was a planted subversive agent.

Admits Furnishing Data

In an answer to the suit, Mr. Raus admitted that on three occasions he had stated the plaintiff was a Soviet agent or collaborator and should not receive Estonian cooperation.

Mr. Raus at first stated only that the information came from an official agency of the United States Government, according to the answer.

ceedings revealed that Mr. Raus, who worked for the Bureau of Public Roads in Washington, was a CIA agent and had signed a secrecy agreement.

The CIA admitted that it had furnished Mr. Raus with the information and sent him to meeting of key Estonian groups to make the statements complained of in the suit.

Such action was taken, it was asserted, because the CIA was interested in protecting its intelligence sources from infiltration.

The Government spy agency asserted it had an "absolute privilege" to refuse to reveal the source of its information and to prevent Mr. Raus from making any further statements.

Argument Cited

Ernest C. Raskauskas and Robert J. Stanford, Washington attorneys for Mr. Heine, argued that the CIA was not concerned with internal security as opposed to foreign sources. Official privilege could not be extended to those who have no discretion in carrying out orders, it was contended.

The plaintiff's lawyers also asked to go to trial to test whether Mr. Raus was actually employed by the CIA and contended there was a genuine issue at stake.

3 Affidavits Required

Judge Thomsen noted that he had required the CIA to file at least three affidavits in the case but that he was barred on security grounds from requiring full disclosure.

Officials were clearly correct in raising privilege grounds and it was in the scope of the CIA to prevent disclosure, it was decided.

Paul R. Connolly and E. Barrett Prettyman, Jr., were lawyers for Mr. Raus. Thomas J. Kenney, United States attorney, and Lawrence R. Houston represented the